

#### **d.) Remarks**

The present invention generally comprises a sleeping mattress construction that is particularly adapted for use in prisons, jails and similar institutional settings to thwart the concealment of prohibited objects or substances within the mattress.

The crux of one embodiment of the invention is the provision of a mattress formed of transparent material, so that there is no possibility of obscuring weapons or contraband either in or beneath the mattress. As shown in Figure 2 of the application, the slats 22 and platform 9 of the bed structure are clearly visible through the mattress assembly, so that nothing may be hidden therein or thereunder.

A primary reference in the instant Action is the Strobel patent, which describes a waterbed mattress having a double wall construction so that the outer bladder may contain any leaked water from the inner, water-containing bladder. To enable the user to visualize any leaked water contained within the outer bladder, the outer bladder is described as transparent. The inner bladder is described as translucent or opaque. The reference also discusses various combinations of transparent or opaque or embossed materials, and states that if the outer bladder is transparent, the inner bladder should be embossed because it will then be visible.

The aim of Strobel is to visualize any leaks from the inner bladder. It is quite clear that Strobel does not recognize the problem that is dealt with in the present invention: that is, the use of a bed mattress to conceal contraband or

weapons., Although Strobel uses materials that could be employed to create the present invention, there is no indication in Strobel of recognition of the problem, nor to solve it in any general way, nor to solve it as applicant has in the present invention. Note col. 2, lines 31-37: “Furthermore, since there are two bladders in the mattress of the present invention, one or both of the bladders may be embossed as desired. It will be recognized, however, that most of the reason for embossing is aesthetics: and, if the outer bladder is transparent, the inner bladder should be embossed because it will be visible.” The visibility of the inner bladder is essential to enable visualization of any leaked water against the background of the visible (opaque or embossed translucent) inner bladder. Thus it is clear that the teaching of Strobel is directed away from the kernel of the present invention, which is to enable visualization of contraband by providing upper and lower layers of transparent material in the construction of the mattress.

Another primary reference is the Hayes patent, which describes “a body cushioning device comprising a multiplicity of soft gas filled bubbles enclosed in an impermeable evacuable membrane.” (col. 1, lines 65-67). The cushioning device includes a vacuum mat 1 formed of a top sheet 2 and bottom sheet of flexible transparent material joined into an envelope, and a plurality of flexible transparent bubbles secured inside the envelope. After the mat is wrapped about a body (a child), the air inside the envelope is sucked out through a tube 5a, causing the sheets to collapse onto the bubbles to provide a sturdy, shock-absorbing enclosure. The mat is reconfigurable, and the bubbles may be moved within the

envelope to form a pocket for the body before the air is evacuated to rigidify the assembly. The sheet material and the bubble material is preferably transparent to permit viewing of the body or article wrapped within the mat assembly.

The only point of similarity between Hayes and the present invention is the provision of an envelope formed of transparent plastic that is pressure retaining. It is quite clear that Hayes, like Strobel, does not recognize the problem that is dealt with in the present invention: that is, the use of a bed mattress to conceal contraband or weapons., Although Hayes uses materials that could be employed to create the present invention, there is no indication in Hayes of recognition of the problem, nor how to solve it in any general way, nor to solve it as applicant has in the present invention.

The Hayes assembly would not be considered a mattress, which is typically defined as a fabric case filled with resilient material (as cotton, hair, feathers, foam rubber, or an arrangement of coiled springs) used either alone as a bed or on a bedstead, or, **b**: an inflatable airtight sack for use as a mattress. Hayes describes that apparatus as being a body cushioning device for protecting a body during transport, NOT for use on a bedstead or as a bed. Hayes device is designed to be wrapped and folded about the body, secured with straps, and evacuated to maintain the arrangement of bubbles, which define a shaped shock-absorbing package about the body, during transport. A mattress is necessarily maintained flat on a bedstead for supporting a person laying flat in a sleeping or resting position. Thus it is clear that the Hayes assembly is not a mattress.

Note also that the Hayes envelope is designed NOT to be inflated as a supportive pressure bladder, but to be evacuated to collapse on the internal bubbles and hold them in place about the body. And this protective function cannot be accomplished unless the Hayes apparatus is first wrapped about the body before being evacuated. Hayes requires that the assembly be wrapped about the body and evacuated. Thus Hayes teaches away from the concept of the present invention, in which a mattress is supported flat on a bed and inflatable to support a sleeping person, and formed of transparent material and so that contraband cannot be concealed in the bed in or beneath the mattress.

A secondary reference is the Davis patent, which describes an inflatable transport apparatus for a medical patient. It is cited for a showing of a stitched seam, and is combined with Hayes in a rejection under §103. Although the rejection points to seams 145a, 145b in the reference, Davis describes these seams as “sewn,” it does not use the term “stitched” to describe any of the seams incorporated therein. Thus this reference fails as a secondary showing of a stitched seam as claimed in the present invention.

On the other hand, the secondary reference of Wilhelm, cited for a showing of weld seams in an air mattress, clearly does show that feature. Note however that the bottom sheet 2 is formed of an opaque (frosted or matted) sheet material, rather than a transparent material as used in the present invention.

The references cited but not applied in the instant action have been reviewed, and they do not appear to offer any more cogent disclosures than the

patents discussed above. US 6428865 describes molded shock-absorbing cushion device, which is fairly remote from the field of the present invention. US 6,260,222 describes a mattress having a laminated sponge core wherein the first line low density polyethylene layer, the first nylon layer, the second line low density polyethylene layer, and the second nylon layer of the mattress body are transparent so that the inflation and the squeeze of the sponge layer are visible. The sponge layer is made with various colors, thereby enhancing the appearance and variance of the air mattress structure. This assembly bears little similarity to the instant invention.

US 6161240 is similar to the '865 patent above, in that it describes a molded insole, in this case with pinholes to release foot powder. This and the remaining citations are no closer to the invention than the applied art.

Applicant contends that the creation of an invention involves two fundamental acts: recognizing an existing problem, and developing a solution to the recognized problem that is unique or non-obvious in the general field of the recognized problem. In the present case, the use of bedding in jails or prisons for concealment of contraband or illegal objects or substances is well-known, almost legendary. Thus the problem clearly has been recognized. But what solutions have been proposed? Typically, the authorities undertake frequent inspections of cells, use metal detectors or infrared sensors, or the like. In all of the many references cited in the instant Action, not one reference makes any mention or indication of the problem of contraband hidden in bedding. This fact indicates that

no one in the bedding art has considered the hidden contraband problem, so there would be no impetus to solve the problem. That is, the prior art provides no impulsion to apply transparent materials to prison bedding to prevent concealment of contraband.

Indeed, in response to the rejections of the instant Action, application asserts that secondary considerations, including commercial success (MPEP 716.03) and a long-felt need that has gone unmet (MPEP 716.04) both point to the non-obviousness and patentability of the present invention. In support of these secondary considerations, applicant submits herewith Exhibit A, a letter from Howard Skolnik, Assistant Director, Dept. of Corrections, State of Nevada; and Exhibit B, a catalog entry from a prison supply company indicating that the invention is currently being sold and used.

The letter from Mr. Skolnik indicates that the invention works well in eliminating a large area used to hide contraband. It also states that the invention should provide cost savings by reducing staff time for searches, and improve safety by reducing contraband. This letter implicitly expresses the long-felt need (interdiction of concealed contraband in prisons), which has been satisfied in the past only by staff searches, and the fact that the invention meets this long-felt need with a new product that is far superior to past remedies. Exhibit A also implicitly expresses the commercial success of the invention.

Exhibit B is a catalog from Galls, Summer 2004 edition, p. 2b displaying an advertisement for the Security First Mattress, which is applicant's licensed

product. Note that the reduction in hidden contraband provided by a window-clear vinyl covering of the mattress is featured prominently in the product description, indicating a nexus between the innovative use of transparent materials to prevent concealment and the marketing of the commercial product.

These secondary considerations point to the non-obviousness of the invention, and the patentability of the invention over the prior art.

The claims have been substantially written to highlight the distinctions over the prior art noted above. Claims 1-4 and 8-11 have been canceled, new independent claims 16 and 17 have been added, and the remaining claims have been amended to depend from the new independent claims. New claim 16 recites a system for preventing concealment of contraband in a bed formed of a mattress resting on a support. In this aspect alone, the claim is distinct from all the prior art, none of which deals with preventing concealing of contraband. Claim 16 further recites an outer mattress cover comprised of top and bottom panels formed of transparent sheet material and sealed together to define at least one air bladder. The claims also states that the enclosed envelope is supported generally horizontally on a supporting structure to support a human body (unlike, for example, the Hayes assembly), and that the transparent sheet material permits visualization of any object in and under the mattress, so that contraband objects cannot be concealed in the bed.

The discussion of the prior art above points to the fact that none of the references, taken singly or together, mention the concealed contraband problem in

association with mattress construction. Nor do any of the references suggest that a transparent mattress may eliminate an enormous opportunity to hide contraband. Therefore it is asserted that claim 16 is allowable over the prior art.

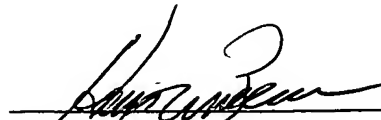
Claim 17 is similar to claim 16 in claiming a system for preventing concealment of contraband in a bed formed of a mattress resting on a support. It also recites a mattress cover having top and bottom panels formed of transparent sheet material and joined together to define an enclosed envelope, and that the envelope is supported generally horizontally on a supporting structure and having a resilient core therein to support a human body. It also states that the transparent sheet material permits visualization of any object in the mattress, so that contraband objects cannot be concealed in the mattress. As with claim 16, the prior art does not suggest in any way that a transparent mattress cover may be employed to defeat the concealment of contraband within a mattress. Therefore it is asserted that claim 17 is also allowable over the prior art.

The remaining dependent claims have been amended to have the proper antecedent basis with the new independent claims.

Applicant believes that all claims now presented define the invention patentably over the prior art, and are allowable. There being no other outstanding issues to resolve, this application should be in condition to be passed to issue. Action toward that end is earnestly solicited.



Respectfully Submitted,

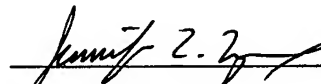


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Encl: Ex. A, Ex. B

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Jennifer L. Lynx

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August 25, 2004

Dan Mahoney  
Vinyl Products  
P.O. Box 649  
Carson City, Nevada 89702-0649

Dear Mr. Mahoney:

I would like to thank you for your development of the clear prison air mattress. I have been Nevada's Assistant Director for Industrial Programs, the work program side of Corrections, since 1987. I have nearly forty years in corrections having worked in three state systems, Ohio, Illinois and Nevada. In all of that time, I have not seen a product like yours. Vinyl coverings have been done before, but always with a solid core of some type.

Your product provides an extra level of security to our operations by eliminating a large area previously used to hide contraband. The clear nature of your product makes concealing items under or within it nearly impossible. It should provide cost savings in staff time during searches and improve institutional safety through the reduction of contraband.

We are pleased to be working with you on the introduction of this product and feel that it has great potential to become the standard throughout corrections.

Very truly yours,

A handwritten signature in black ink, appearing to read "H. Skolnik".

Howard L. Skolnik  
Assistant Director

Cc: Harris Zimmerman

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*See pages 4-5*



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# These innovative products reduce

## Keep Prisoners from Injuring Themselves

For those jail managers who find that the inmates you're responsible for don't want to follow the rules, Galls offers two products, a NEW Humane Safety Smock and a NEW Humane Safety Blanket. They're constructed of rugged quadlen-batting material quilted together to prevent shredding or tearing. This reduces the chance an inmate can use the material to injure himself. The material is easy to care for as it resists soiling and is machine washable. It can be machine washed and dried in your facility's laundry.

Hook and loop  
closures

**NEW**

### NEW Humane Safety Smock

Smock is designed to be a rugged yet comfortable covering. It has adjustable hook and loop closures along the body and along the shoulder straps that make it easy to put on and to custom fit it to the person. Smock can be worn with the closure in the front or the back. Black. Size: One size fits most people up to jacket size 60.

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**NEW**

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Durable and comfortable, blanket can be used as a bed or body covering. Generous size at 85" x 60" unfolded. Weighs approximately 4 lbs. Black.

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### NEW Security First Mattress: Provides Greater Safety for Your Officers and Shorter Inspection Times!

This mattress has a window clear PVC vinyl, no seam covering that makes hiding contraband very difficult and detecting it easy. The heavy-duty 24 mil PVC vinyl is fire retardant, anti-bacterial treated and formulated to be highly flexible for strength and longevity. Inside it's filled with top-quality, high-density, hypoallergenic polyester fiber. The Security First Mattress has passed the demanding California of Home Furnishings Technical Bulletin for Correctional Institutions. 5-Year Limited Warranty. 4" H x 30" W x 75" D. Allow 3 days for factory delivery. Please add \$22 freight charge per mattress.

#U-CF026 .....\$109.99

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